

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

HOWARD ELLIS,

Plaintiff,

vs.

JAMES BENEDETTI, et al.,

Defendants.

3:08-cv-00657-MMD-WGC

**ORDER**

re: “EMERGENCY MOTION”  
Statement to Order to Show Cause  
re: Dismissal  
(Doc. # 306)

Before the court is Plaintiff’s “EMERGENCY MOTION” Statement to Order to Show Cause re: Dismissal. (Doc. # 306.)

The court, however, cannot discern the relief (if any) sought by this “emergency motion.” As Plaintiff notes at page 7 of his filing, an emergency motion shall, *inter alia*, set forth the nature of the emergency. Nowhere in Plaintiff’s motion does the Plaintiff identify the specific emergency upon which his motion is premised, other than a confusing statement in the opening paragraph that he is petitioning the court “by order to compel the 12/20/13 emergency grievance records. In possession of prison officials. See underlined attached affidavit/exhibits.” (Doc. # 306 at 1.) In further reviewing Plaintiff’s affidavit in an attempt to ascertain the nature of the alleged emergency, it appears that Plaintiff seeks intervention of the court to secure certain grievances from the Nevada Department of Corrections. Other than that, the court cannot ascertain the nature of the emergency relief sought, if any there is.<sup>1</sup>

On the other hand, the opening paragraph of Plaintiff’s filing states he is submitting “his

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<sup>1</sup> An “emergency motion” would not be the proper mechanism to secure documents from an opposing party, assuming any of the defendant parties even have possession or control over such grievances.

1 'EMERGENCY MOTION' Statement to Order to Show Cause re: Dismissal. Document 303" which  
2 suggests that perhaps this filing is somehow meant to be a response to the Court's Order to Show Cause  
3 (Doc. # 303). But thereafter, Plaintiff's filing, as discussed above, states he is petitioning the court "by  
4 order to Compel the 12/20/13 emergency grievance records. In possession of prison officials.\*\*\*" (Doc.  
5 # 306 at 1.) If Plaintiff intended his "emergency motion" to constitute a response to the court's Order  
6 to Show Cause re Dismissal (Doc. # 303), Plaintiff's "emergency motion" is unsatisfactory and provides  
7 no explanation why Plaintiff has failed to serve any responses to Defendants' written discovery and why  
8 this case should not be dismissed for his failure to obey this court's discovery order. Plaintiff, therefore,  
9 must still respond to the Order to Show Cause to explain any circumstances which Plaintiff claims  
10 should prevent this court from recommending dismissal of this action.

11 Plaintiff's emergency motion (Doc. # 306) is **DENIED**.

12 **IT IS SO ORDERED.**

13 DATED: December 30, 2013

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15 WILLIAM G. COBB  
16 UNITED STATES MAGISTRATE JUDGE  
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